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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,516	12/05/2003	Ramon Kuczera	G00364/US	2398

35758 7590 01/31/2005

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EXAMINER
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BINDA, GREGORY JOHN

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/729,516

Applicant(s)

KUCZERA ET AL.

Examiner

Greg Binda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 2-6, 8, 11, 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1, 7, 9, 10, 12, 13 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 2-6, 8, 11, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20031205.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*Information Disclosure Statement*

1. The information disclosure statement filed December 5, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each foreign listed.

*Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.83(a) because the drawings fail to show the following claim limitations:

- a. Energy absorption surfaces interfering with the inner joint and the rollers.
- b. The outer joint part operated in the extended range.
- c. A displaceable grease cover.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

4. The specification is objected to as failing to comply with 37 CFR 1.71 and 1.75(d)(1) because the detailed description fails to provide proper antecedent basis for claim 17 and claim 20, lines 5 & 6.

### *Claim Objections*

5. Claims 1 & 19 are objected to because:
- a. Claim 1, line 11 and claim 19, line 11, the words “having an inner bore mounted on said inner race” should be replaced with a phrase such as --, each roller having an inner bore mounted on a respective one of said inner race -- or a similar phrase thereof.
  - b. Claim 1, line 13 and claim 19, line 13, the word “part” should follow each instance of the word “joint”.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 18 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurzeja et al, US 4,605,384. Figs. 1-6 show an energy absorbing plunging constant velocity joint 16 comprising: an outer joint part 10 having "innerly" a normal range, an extended range, and a plurality of outer bores 20 circumferentially spaced between a plurality of longitudinally extending tracks 22, each track having a bottom spaced between two oppositely disposed longitudinal sidetracks; an inner joint part 14 disposed within the outer joint part having a plurality of spider sides circumferentially spaced between a plurality of trunnions, each trunnion having a top and an inner race; a plurality of rollers 76, each roller having an inner bore mounted on a respective inner race of a trunnion, whereby angular and axial displacement occur between the inner joint and outer joint; and an energy absorbing surface 26 distal (as at recess 24) to the normal axial range and located in the extended axial range upon the outer joint part, wherein the energy absorption surface on the outer joint part interferes with the inner joint part 14 when the outer joint part is operated beyond the normal axial range in the extended axial range.

8. Claims 1, 7, 9 & 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Mazziotti et al, US 4,674,993. Figs. 1 & 2 show an energy absorbing plunging constant velocity joint comprising all the limitations of the claims including an energy absorption track bottom surface 62 (see also col. 2, line 65).

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9. Claims 1, 10, 12 & 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Krude, US 5,460,573. Figs. 1 & 2 show an energy absorbing plunging constant velocity joint comprising all the limitations of the claims including an energy absorption surface that is a bore surface of an outer bore 19.

10. Claims 1, 13 & 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Bartlett, US 6,776,720. Figs. 3-10 show an energy absorbing plunging constant velocity joint comprising all the limitations of the claims including an energy absorption track surface 41 (see also col. 6, lines 41-46).

*Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1 & 16-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Boutin, US 6,666,771 in view of Hirai et al, US 4,196,598 (Hirai). In Figs. 1 & 2, Boutin show an energy absorbing plunging constant velocity joint comprising: an energy absorption surface (see the inner surface with the diameter D2 at the end 33) and a displaceable grease cover 56. However, Boutin shows the constant velocity joint in the form of a double offset joint instead of a tripod joint. Hirai discloses that a tripod joint (see Fig. 4) is an art recognized equivalent of a double

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offset joint (see Fig. 5). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the energy absorbing plunging constant velocity joint of Boutin by making the joint in the form of a tripod joint instead of a double offset joint since a tripod joint is an art recognized equivalent of a double offset joint as disclosed by Hirai.

*Allowable Subject Matter*

13. Claims 2-6, 8, 11, 14 & 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Orain shows an energy absorbing plunging constant velocity joint.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Binda  
Primary Examiner  
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